

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OAKLAND-MACOMB INTERCEPTOR
DRAIN DRAINAGE DISTRICT,

Plaintiff,

Case No. 13-cv-12399
HON. GERSHWIN A. DRAIN

vs.

ZURICH AMERICAN INSURANCE COMPANY,

Defendant.

ORDER DENYING MOTION FOR RECONSIDERATION [#18]

Presently before the Court is Plaintiff's Motion for Reconsideration of this Court's October 15, 2013 Order Granting Defendant's Motion to Dismiss. Defendant's Motion was granted because the Court concluded the instant action was barred by the suit limitation provision in the parties' insurance agreement.

Local Rule 7.1(h)(3) of the Local Rules of the United States District Court for the Eastern District of Michigan provides:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties and other persons entitled to be heard on the motion have been misled but also show that correcting the defect will result in a different disposition of the case.

E.D. Mich. L.R. 7.1(h)(3). "A 'palpable defect' is 'a defect that is obvious, clear, unmistakable, manifest, or plain.'" *United States v. Lockett*, 328 F. Supp. 2d 682, 684 (E.D. Mich. 2004) (citing

United States v. Cican, 156 F. Supp. 2d 661, 668 (E.D. Mich. 2001)). “[A] motion for reconsideration is not properly used as a vehicle to re-hash old arguments or to advance positions that could have been argued earlier but were not.” *Smith ex rel. Smith v. Mount Pleasant Pub. Sch.*, 298 F. Supp. 2d 636, 637 (E.D. Mich. 2003) (citing *Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir.1998)). Upon review of Plaintiff’s present motion, the Court finds that Plaintiff has failed to demonstrate a palpable defect by which this Court has been misled the correction of which will result in a different disposition of this matter.

Accordingly, Plaintiff’s Motion for Reconsideration [#18] is DENIED.

SO ORDERED.

Dated: March 28, 2014

/s/Gershwin A Drain
GERSHWIN A. DRAIN
U.S. DISTRICT JUDGE